

Remarks

Applicant requests reconsideration and allowance of this application in view of the foregoing amendment and the following remarks.

Applicant gratefully acknowledges the allowance of claim 5 and the indication of allowable subject matter in claims 2-4.

Applicant respectfully traverses the rejection of claim 1 as being anticipated by Haury et al. US Patent No. 4,500, 102 (Haury). Claim 1 reads:

1. A wheelchair including:
 - a seat back;
 - a frame rail;
 - a seat back fold-down mechanism supporting said seat back for folding movement relative to said frame rail between a folded position and an unfolded and locked position, said seat back fold-down mechanism including a first releasable locking mechanism for releasably locking said seat back in the unfolded and locked position; and
 - a seat back angle adjustment mechanism for adjusting the angle of said seat back relative to said frame rail when said seat back is in the unfolded and locked position, said seat back angle adjustment mechanism including a second releasable locking mechanism for releasably locking said seat back at any selected one of a plurality of different angles relative to said frame rail;
 - said seat back fold-down mechanism enabling folding movement of said seat back between the folded position and the unfolded and locked position without releasing said second releasable locking mechanism when said seat back is locked in any selected one of the plurality of different angles relative to said frame rail;
 - said seat back having a portion that slides along said frame rail as the seat back angle is adjusted.

In order for anticipation to be present, every element of the claim must be found in the reference.

The Office Action does not specifically point out which portion of the Haury structure meets this claim language:

said seat back having a portion that slides along said frame rail as the seat back angle is adjusted.

In a brief telephone call, the Examiner stated that he believed that, in Haury, the screw 162 sliding in the slot 160 met this language. If this is the case, then Applicant submits that the reference does not meet the terms of the claim.

Specifically, in Haury, the pivot plate 152 is secured to the pivoting portion 150 of the seat back by the fastener 162 which extends through the slot 160 in the hinge plate 152 and is apparently threaded into the seat back 150. One adjusts the seat back relative to the hinge means, by loosening the fastener 162; allowing the seat back 150 to pivot relative to the pivot plate 152 and the fixed rail 14 about upper connection point 156; and then retightening the fastener 162.

Notably, when the seat back is folded forward (as shown in dashed lines in Fig. 11), the pivot plate 152 moves (folds forward with) with the seat back 150. The pivot plate 152 does not stay with the fixed frame rail portion 14.

If one is attempting to read the claim on the reference, the pivot plate 152 can not be considered to be a part of the frame rail, because the pivot plate 152 moves with the other seat back parts when folded. Thus, since the slot 160 is in the pivot plate 152, the slot is not on the frame rail. Thus, the fastener 162 is not moving relative to a part of the frame rail when the seat back angle is adjusted, in the Examiner's reading of the claim on the reference. In addition, applicant's claim calls for a "frame rail" and a "seat back" that folds relative to the frame rail. A pivot plate is not a "frame rail". For these reasons, claim 1 is not anticipated by Haury.

New claims 7-9 are dependent directly or indirectly from claim 1 and are allowable for the same reasons as claim 1. In addition, each one of claims 7-9 adds one or more new features or limitations that together with the subject matter of claim 1 provide a separate basis for allowability.

Specifically, claim 7 specifies that the frame rail is a generally horizontal frame rail that does not pivot upon folding of the seat back, the wheelchair including a pivot plate that is pivotally joined to the frame rail and that supports the seat back for pivoting movement relative to the frame rail, the seat back portion sliding along the generally horizontal frame rail as the seat back angle is adjusted. This structure is clearly not found in Haury.

Claim 8 specifies that the seat back portion that slides along the frame rail as the seat back angle is adjusted comprises a lower portion of the seat back, the seat back lower portion being supported on a track of the frame rail for sliding movement in a generally horizontal

direction along the track and thus along the length of the frame rail as the seat back angle is adjusted.

There is no indication in Haury that, as seat back angle adjustment occurs, a lower portion of the seat back (element 150) slides along a track on the frame rail. Therefore, it is respectfully submitted that this reference does not met the terms of claim 8.

Claim 9 recites a wheelchair as set forth in claim 8 wherein the first releasable locking mechanism includes a release pin that is supported on the lower portion of the seat back for movement with the seat back, the release pin having a portion that is slidably received in the track. Again, this structure is clearly not found in Haury.

Applicant respectfully traverses the rejection of claim 6 as being anticipated by Haury et al. US Patent No. 4,500, 102 (Haury). Claim 6 reads:

6. (amended) A wheelchair including:
 - a seat back;
 - a frame rail;
 - a seat back fold-down mechanism supporting said seat back for folding movement relative to said frame rail between a folded position and an unfolded and locked position, said seat back fold-down mechanism including a first releasable locking mechanism for releasably locking said seat back in the unfolded and locked position; and
 - a seat back angle adjustment mechanism for adjusting the angle of said seat back relative to said frame rail when said seat back is in the unfolded and locked position, said seat back angle adjustment mechanism including a second releasable locking mechanism for releasably locking said seat back at any selected one of a plurality of different angles relative to said frame rail;
 - said seat back fold-down mechanism enabling folding movement of said seat back between the folded position and the unfolded and locked position without releasing said second releasable locking mechanism when said seat back is locked in any selected one of the plurality of different angles relative to said frame rail;
 - said seat back including a back cane that is pivotally connected with said frame rail by a pivot bracket, said back cane being fixedly connected to said pivot bracket, said pivot bracket pivoting relative to said frame rail when said seat back is moved from the unfolded position to the folded position;
 - said first releasable locking mechanism being a connection between said back cane and said frame rail.


Claim 6 specifies that the first releasable locking mechanism is a connection between the back cane and the frame rail. In contrast, In Haury, that mechanism is a connection (pin 166) between the pivot plate 162 and the frame rail. Thus, Haury does not meet the terms of claim 6 and claim 6 is allowable.

Conclusion

Applicant submits that this application is now in condition for allowance, and notice to that effect is respectfully requested. Please charge any fee deficiencies and credit any overpayments to Deposit Account number 03-0172, order number 12873/05197.

Respectfully submitted,

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